

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No. 09/878,325

**REMARKS**

Claims 1-27 are all the claims pending in the application, including new claim 27 added by the present Amendment.

Claims 7-9, 14, 15, 22, and 24-26 have been withdrawn from consideration. Claims 1-6, 10-12, 19-21, 23, and (16-18)/(1, 5, 10) are allowed. Claims 13 and (16-18)/13 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention.

In response to the Amendment of February 5, 2003, which was entered via the RCE filed March 5, 2003, the Examiner now rejects claims 13 and (16-18)/13 under 35 U.S.C. § 112, first paragraph. Because of this rejection, the Examiner did not examine the claims further.

Although the Examiner indicates in the Office Action (see page 2, paragraph 2) that the claims were not further examined, because of the rejection under 35 U.S.C. § 112, first paragraph, Applicant submits that the rejection under § 112, first paragraph, does not relieve the Examiner from the duty to examine the claims in light of the prior art. See M.P.E.P. § 2163.III. Hence, any subsequent rejection must be made on a non-final basis.

Claim 13 is amended herein to recite that an electric field applied portion of at least one of the piezoelectric layers, located away from the surface fixed to the fixing member, is shorter than other piezoelectric layers that are located between the at least one piezoelectric layer and the first surface. Support for this amendment is shown in the specification at page 31, lines 3-19, for example.

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Also, the above-identified portion of the specification is amended herein to correct the recitation of the pair of internal electrodes 32 and 33. This change to the specification is a grammatical correction, which is fully supported by the original specification, and thus presents no new matter to the original disclosure.

Additionally, the limitation of "wherein a length of at least one of the internal electrode layers, located away from the surface fixed to the fixing member, is shorter than other internal electrode layers that are located between the at least one internal electrode layer and the first surface and that have the same polarity as that of the at least one internal electrode layer," which is the basis for rejection of the claims under 35 U.S.C. § 112, is removed from claim 13 by the present Amendment. Thus, the rejection of claims 13 and (16-18)/13, as well as the Examiner's Response to Arguments, are rendered moot.

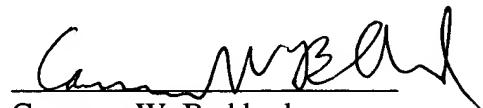
Claim 27 is added to more fully define the present invention and is believed to be allowable, at least because of its dependence from claim 13.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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